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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,693	09/19/2003	Kazutoshi Kaizuka	45144-00050	4704

7590 11/29/2006

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Los Angeles, CA 90017-5554

EXAMINER
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GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/664,693

Applicant(s)

KAIZUKA, KAZUTOSHI

Examiner

Gary K. Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20040524&20040820.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION***Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Numerals 2, 3 and 46. The drawings are **also** objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Numeral 44. The drawings are **also** objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "40" has been used to designate both the grooves (fig.2) and the hairbrush (fig.3).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US patent 4,694,525) in view of Kaizuka (US patent 6,357,075).

The patent to Yamamoto discloses a hairbrush (fig.1) having a base or bristle mount (1) which supports bristles (2). A handle (3) is connected to the base to enable manipulation by a user. Yamamoto discloses that the hairbrush can be made as a single piece with the bristles and handle integrally molded or can be made by attaching the bristles to a bristle sheet which is then attached to the handle (see summary).

The patent to Yamamoto discloses all of the above recited subject matter with the exception of the bristles, bristle mount and the handle being made in part of a silicon dioxide based mineral powder which includes a far-infrared emitting powder.

The patent to Kaizuka discloses making bristles of a hair brush of in part a silicon dioxide base mineral powder containing a far-infrared emitting powder. The use of such materials is to promote hair and scalp health.

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It would have been obvious to one of skill in the art to make the hairbrush of Yamamoto of a material that includes in part a silicon dioxide based mineral powder with a far-infrared emitting powder, as clearly suggested by Kaizuka, to promote hair and scalp health. As the Yamamoto hairbrush can be of a one piece construction, it appears that a hairbrush so made that includes the silicon dioxide based powder and the far-infrared emitting powder will have such materials within the bristle mount and handle as claimed. If the powders are present in the bristles of the one piece hairbrush, they will end up within the base and handle as well.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (US patent 2,607,064) in view of Kaizuka (US patent 6,357,075).

The patent to Sullivan discloses a hairbrush (figs.4,5) having a base or bristle mount (30) which supports bristles (16). A handle (31) is connected to the base to enable manipulation by a user. Sullivan discloses that the hairbrush can be made as a single piece with the bristles, base and handle integrally molded.

The patent to Sullivan discloses all of the above recited subject matter with the exception of the bristles, bristle mount and the handle being made in part of a silicon dioxide based mineral powder which includes a far-infrared emitting powder.

The patent to Kaizuka discloses making bristles of a hair brush of in part a silicon dioxide base mineral powder containing a far-infrared emitting powder. The use of such materials is to promote hair and scalp health.

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It would have been obvious to one of skill in the art to provide the hairbrush of Sullivan with part silicon dioxide based mineral powder with a far-infrared emitting powder, as clearly suggested by Kaizuka, to promote hair and scalp health. As the Sullivan hairbrush is of a one piece construction, it appears that a hairbrush so made that includes the silicon dioxide based powder and the far-infrared emitting powder will have such materials within the bristle mount and handle as claimed. If the powders are present in the bristles of the one piece hairbrush, they will end up within the base and handle as well.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Gary K. Graham', with a long horizontal stroke extending to the left.

Gary K Graham  
Primary Examiner  
Art Unit 1744

GKG  
27 November 2006